

ENTERED

November 10, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

JOSEPH P GARBARINI,

Plaintiff,

VS.

JANAS RANGEL, *et al.*,

Defendants.

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CIVIL ACTION NO. 2:20-CV-216

ORDER ADOPTING MEMORANDUM & RECOMMENDATION

Before the Court is Magistrate Judge Julie Hampton's Memorandum and Recommendation (M&R). (D.E. 24). The parties were provided proper notice of, and the opportunity to object to, the Magistrate Judge's M&R. *See* U.S.C. § 636(b)(1); FED R. CIV. P. 72(b); General Order No. 2002-13. Plaintiff filed objections to the M&R. (D.E. 27; D.E. 31; D.E. 32; D.E. 33).¹ Having carefully reviewed the proposed findings and conclusions of the M&R, the record, the applicable law, and having made a de novo review of the portions of the M&R to which Plaintiff's objections were directed, 28 U.S.C. § 636(b)(1), the court **OVERRULES** Plaintiff's objections. (D.E. 27; D.E. 31; D.E. 32; D.E. 33).

Accordingly, the Court:

(1) **ADOPTS** the M&R in its entirety. (D.E. 24).(2) **RETAINS** the following claims: (a) an Eighth Amendment claim of deliberate

¹ Plaintiff originally filed Docket Entries 27, 31, and 32 as (1) a motion for an evidentiary hearing, (2) a motion for clarification, and (3) a motion to amend or correct an order, respectively. The Magistrate Judge construed these filings as objections to the M&R. (D.E. 34). Accordingly, the Court has considered these filings as objections to the M&R.

indifference for monetary relief against **Food Service Manager Janas** in his individual capacity; and (b) an Eighth Amendment claim for injunctive relief against **Warden Castro** in her official capacity as the party able to provide the injunctive relief should Plaintiff prevail.

- (3) Plaintiff's claims for money damages against all Defendants named in their official capacities are **DISMISSED** as barred by the Eleventh Amendment.
- (4) The unnamed McConnell Unit food service managers are **DISMISSED** from this action.
- (5) Plaintiff's motion for temporary restraining order and preliminary injunction (D.E. 3) is **DENIED**.

SO ORDERED.



DAVID S. MORALES
UNITED STATES DISTRICT JUDGE

Dated: Corpus Christi, Texas
November 9, 2020